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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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| In re: |) | AWA Docket No. 06-0016 |
| |) | |
| DAVID MARTIN PICCIRILLO, an |) | |
| individual doing business as ARC ANGEL |) | |
| WILDLIFE and ARC ANGEL |) | |
| PRODUCTIONS; and, WENDY SUE |) | |
| MEARS, an individual doing business as |) | |
| ARC ANGEL WILDLIFE, |) | CONSENT DECISION AND |
| |) | ORDER AS TO WENDY |
| Respondents. |) | SUE MEARS |

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the jurisdictional allegations in the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Wendy Sue Mears is an individual doing business as Arc Angel Wildlife, an unincorporated association or partnership, and whose address is 10120 Country Road 25, Dalton,

Minnesota 56537. At all material times herein said respondent was operating as an exhibitor as that term is defined in the Act and the Regulations.

2. APHIS personnel conducted inspections of respondent Mears' facilities, records and animals for the purpose of determining respondent's compliance with the Act, Regulations, and Standards on December 21, 2004 (attempted inspection), January 4, 2005 (attempted inspection), January 5, 2005 (fifteen animals inspected), January 13, 2005 (focused inspection, two animals inspected), January 14, 2005 (focused inspection, two animals inspected), January 26, 2005 (focused inspection, two animals inspected), February 23, 2005, March 30, 2005 (ten animals inspected), May 5, 2005 (focused inspection, one animal inspected).

Conclusions

The respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondent, her agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder.

2. Respondent Wendy Sue Mears is assessed a civil penalty in the amount of \$5,000, of which \$2,500 shall be held in abeyance in accordance with the provisions set forth paragraph 3 of this order. The remaining \$2,500 shall be paid in full, and received by counsel for complainant at the address below, on or before Thursday, **March 1, 2007**. Respondent's civil penalty payment shall be made by certified check or money order made payable to the Treasurer

of United States that includes the notation "AWA Docket No. 06-0016," and shall be sent to:

Bernadette Juarez
United States Department of Agriculture
Office of the General Counsel
Marketing Division
1400 Independence Avenue, S.W., Stop 1417
Room 2343-South Building
Washington, DC 20250-1417

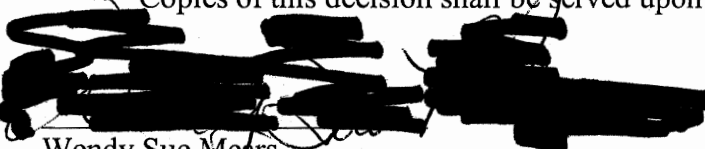
3. If respondent fails comply with the payment terms in paragraph 2 of this order, respondent shall be assessed the entire outstanding balance of the civil penalty, including the portion of the civil penalty held in abeyance as described above in paragraph 2, without further procedure. Respondent agrees to a prospective waiver of any right to notice and opportunity for a hearing pursuant to section 19 of the Act (7 U.S.C. § 2149) as to any such failure to comply with paragraph 2.


4. This Court specifically retains jurisdiction of this matter to enforce the terms of the agreed consent order. If respondent fails to comply with the provisions in paragraph 2 of this order, this Court, upon a motion by complainant, shall issue a default order against respondent Wendy Sue Mears, and grant to complainant the relief specified in paragraph 3 of this order.

5. Respondent Wendy Sue Mears is permanently disqualified from obtaining an Animal Welfare Act license.



This Order shall have the same effect as if entered after a full hearing and shall become effective on the first day after service of this decision on the respondent.

Copies of this decision shall be served upon the parties.


Wendy Sue Mears
Respondent


Bernadette Juarez
Attorney for Complainant

Done at Washington, D.C.
this 8th day of January, 2007

 
Marc R. Hillson
Chief Administrative Law Judge